

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7635

BILL NUMBER: HB 1927

DATE PREPARED: Jan 21, 2001

BILL AMENDED:

SUBJECT: Sale of Fireworks.

FISCAL ANALYST: Chris Baker

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill permits common fireworks to be sold at retail for use within the state by an interstate retailer. It provides that a supervisor at a temporary stand for the retail sale of fireworks must be at least 18 years of age. The bill also provides that it is a Class A misdemeanor to sell common fireworks to a minor. This bill provides that a person less than 18 years of age who purchases, accepts, possesses, or uses certain fireworks commits a Class C misdemeanor. The bill also provides that a city, county, or town may adopt an ordinance concerning fireworks that includes partial or total bans of common fireworks. It provides for a common firework excise tax of 5% to be collected on sales of common fireworks, and to be imposed, paid, and collected in the same manner that the State Gross Retail Tax is imposed, paid, and collected. The bill provides that the County Auditor shall distribute the Common Firework Excise Tax among the taxing units of the County, with certain exceptions.

Effective Date: Upon passage.

Explanation of State Expenditures: The Department of State Revenue would be required to determine if a firework excise tax return should be a separate return or combined with the return filed for the payment of the State Gross Retail Tax. The Department would be required to notify the County Auditor of the amount of firework taxes to be distributed to the County Treasurer. The Department would also have to certify to the County Auditor each taxing district in the county where firework taxes were collected and the amount of the county distribution that was collected with respect to each taxing district. The Department should be able to absorb the costs of these provisions within their budget.

The Auditor of State would be required to issue warrants to the Treasurer of State ordering the distributions to the appropriate County Treasurer. There could be additional paperwork involved with the issuing of warrants but should be able to be absorbed.

The State Fire Marshal would no longer be required to provide interstate wholesalers with signs indicating the penalty for the selling of fireworks at retail in Indiana that are designated for out-of-state sale. However,

the State Fire Marshal would be required to enforce the following:

- A) permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.
- B) obtaining a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than ten thousand dollars (\$10,000) and to property in an amount of not less than ten thousand dollars (\$10,000).
- C) obtaining an annual certificate of compliance.
- D) obtaining a fireworks stand retail sales permit for retailers selling fireworks at one (1) or more temporary stands.
- E) inspections of records kept by interstate wholesalers of fireworks not approved for sale in Indiana.

The State Fire Marshal is already required to enforce the above listed responsibilities. Any impact would be subject to the interpretation of how enforcement is to be performed.

Explanation of State Revenues: Retailers selling common fireworks (excluding novelties or trick noisemakers) would be required to collect the Common Firework Excise Tax. The tax rate is set at 5% and would be imposed, paid, and collected in the same manner as the State Gross Retail Tax. Retailers would be the collection agents for the State. All revenues collected from the proposed tax would be deposited into a special account of the State General Fund which would be named the Common Firework Excise Tax Account. By May 20th and November 20th of each year, all amounts held in the Common Firework Excise Tax Account are required to be distributed to the county treasurers of Indiana.

The bill also removes the five-day grace period for an interstate wholesaler purchasing common fireworks in Indiana to exit the state for fireworks not approved for sale in the state and establishes the ability to sell common fireworks at retail in Indiana.

The fee involved to sell fireworks would include a retail sales stand permit which is currently set at \$0. The stand would also be required to have a certificate of compliance on file. The fee for a certificate of compliance is \$1,000. In FY 2000, \$167,000 in fees were collected from certificates of compliance. In FY 1999, \$181,000 in fees were collected.

Secondary Impact: The proposal could generate increased sales of fireworks directly in Indiana and may increase state sales tax collections as a result. Dr. Lee Craig's *Estimates of the Economic Impact of the Fireworks Industry in Indiana* projects the sales tax on fireworks to generate approximately \$2 M in state revenue in FY 2002. Craig's estimate is based on the types of fireworks offered for retail sale that the statute currently allows. The bill could generate sales tax revenue in addition to this estimate.

Approximately, 10% of firework sales in Indiana are of the novelty or noisemaker type. Applying this percentage to Craig's retail sales estimate of fireworks in Indiana would give an estimate of retail sales of fireworks excluding novelty or noisemaker-type fireworks. The projected retail sales of novelty and noisemaker fireworks is \$9.3 M over the FY 2002-FY 2003 biennium. Removing this amount from the original estimate, the excise tax impact of eligible common fireworks over the same biennium could be approximately \$4.2 M.

Penalty Provision: The bill also introduces two penalty provisions. The bill provides for a Class A misdemeanor if a person knowingly sells at retail certain fireworks to a person who is less than eighteen years of age. The bill also introduces a Class C misdemeanor if a person under the age of eighteen uses any fireworks specified by the bill as illegal for the use of minors under the age of eighteen.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail. A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: The distributions to each county treasurer from the Common Firework Excise Tax Account would be equal to the county's share of the total firework taxes being distributed that were initially imposed and collected within the treasurer's county.

The County Treasurer would be required to deposit firework tax collections into a separate account for settlement at the same time as property taxes are accounted for, settled in June and December of each year. The County Auditor would apportion and the County Treasurer would distribute the firework taxes in the same manner as property taxes are apportioned and distributed with respect to property located in the taxing district that the excise tax was originally collected.

Qualification Provision: A legislative body of a municipality or a county can adopt an ordinance that could impose tighter regulations on fireworks, including partial or complete bans. If such an ordinance has been adopted, the adopting municipality or county would not be entitled to distribution of the excise tax.

The impact to local revenue would be dependent upon the amount of excise tax collected in each municipality, and to a certain extent, counties or municipalities that could adopt ordinances containing tighter regulations.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of State Revenue; Auditor of State; Treasurer of State; State Fire Marshal.

Local Agencies Affected: County Treasurer, County Auditor, County or Municipality Legislative Bodies,

Trial courts, local law enforcement.

Information Sources: Office of the Auditor of State; Mara Snyder, Office of the State Fire Marshal, (317) 233-5341; Department of State Revenue; Lee A Craig, Ph.D., *Estimates of the Economic Impact of the Fireworks Industry in Indiana*, Oct. 15, 2000, submitted to the 2000 Interim Study Committee on Public Safety Issues. Greg Shelton, Shelton Fireworks.